

FREQUENTLY ASKED QUESTIONS

(On Web –list all questions, without answers, so viewer can click on question and go direct to that answer)

1. What is Family and Medical Leave under the FMLA?

The Family and Medical Leave Act (FMLA) provides eligible employees with 12 workweeks of unpaid leave for certain qualifying events.

2. Who is eligible for Family and Medical Leave?

You are eligible for FMLA leave if you have been employed by Metro for at least twelve (12) months AND have worked at least 1,250 hours during the 12 month period immediately preceding the start of the leave.

3. Do the 12 months of service with Metro have to be continuous or consecutive?

No. The 12 months do not have to be continuous or consecutive; all time worked for Metro is counted.

4. Do the 1,250 hours include paid leave time or other absences from work?

No. The 1,250 hours include only those hours actually worked for Metro. Paid leave such as vacation and sick leave and unpaid leave, including FMLA leave, are not included.

5. How do I determine if I have worked 1,250 hours in a 12-month period?

Your individual record of hours worked would be used to determine whether 1,250 hours had been worked in the 12 months prior to the commencement of FMLA leave. You should consult with your HR Coordinator or supervisor to learn the total number of hours you have recorded. The following may be helpful for estimating whether eligibility has been met:

- 24 hours worked in each of the 52 weeks of the year; or
- Over 104 hours worked in each of the 12 months of the year; or
- 40 hours worked per week for more than 31 weeks (over seven months) of the year

6. Are part-time or temporary/casual labor employees covered?

Both part-time and temporary employees may be eligible for FMLA leave if they have accumulated 12 months of non-continuous service and meet the 1,250 minimum hours of service requirement.

7. How does Metro count an employee's FMLA leave?

Your 12-month period of entitlement is measured beginning on the first date you take FMLA leave. Your next period of FMLA entitlement would begin the first time you took FMLA leave after the end of any prior 12-month FMLA period. For example, if you needed a 12-workweek period of leave that began on April 1st of Year 1, your 12-month FMLA period would run from April 1st through March 31, of Year 2. If you did not need leave again until September of Year 2, at that point, you would be entitled to 12 workweeks through August 31 of Year 3.

8. For what reasons can I use FMLA leave?

Eligible employees can use FMLA leave for the following reasons:

- The employee's serious health condition
- The birth and care of the employee's child
- Placement with the employee of a child for adoption or foster care and
- Care of the employee's spouse, child or parent with a serious health condition

9. What is a serious health condition?

(See FMLA handbook at § F (ii)). The following is a list of conditions that are considered serious health conditions that will ordinarily entitle an employee to FMLA leave:

- heart attacks or heart conditions requiring bypass surgery;
- most cancers;
- back conditions requiring extensive therapy or surgery;
- spinal injuries;
- appendicitis;

- pneumonia;
- severe arthritis;
- severe nervous disorders;
- pregnancy, miscarriage, complications or illnesses related to pregnancy (e.g. severe morning sickness), and need for prenatal care;
- childbirth and recovery from childbirth;
- Alzheimer's disease or clinical depression.

10. What kinds of health conditions do not qualify for FMLA leave?

The common cold, the flu, ear aches, upset stomach, minor ulcers, headaches other than medically diagnosed migraines, routine dental or orthodontia do not meet the definition of serious health condition. These above descriptions are not intended to be universal, and both the employee and Metro must communicate with one another on a case by case basis.

11. I would prefer not to use any of my paid time off or sick leave during my FMLA leave. Can I choose to be unpaid for the full twelve (12) workweeks of leave even though I have unused paid time off and sick leave?

No. Paid leave, including sick, vacation, personal or administrative leave will be substituted for unpaid leave, so long as accrued time is available according to the rules. Paid leave substituted for unpaid leave will run concurrently with be the 12 workweeks of FMLA leave, i.e. they will be counted together. However, pursuant to Civil Service Rules, Chapter 4, § 4.7, for approved FMLA leave, there shall be a limit of twenty (20) days of paid sick leave an employee may use to care for a spouse, child or parent who has a serious health condition. In addition, it shall be the employee's option to "hold back" up to fifteen (15) vacation days from substitution and concurrent counting against their FMLA leave. If you wish to hold back vacation days from FMLA leave pursuant to this policy, you must enter the number of days you wish to hold back on the Request for Family or Medical Leave form, at the time you make application for FMLA leave.

12. Does injury-on-duty leave count against an employee's FMLA leave entitlement?

Yes. FMLA leave and injury-on-duty leave will run concurrently, provided the reason for the absence is due to a qualifying serious illness or injury. Employees will be notified in writing that the leave will be counted as FMLA leave. See FMLA Handbook at § N.

13. I was injured on the job and my doctor has recommended that I stay home from work for one month. Will I have to utilize my accrued sick time to cover this period of recuperation?

If you suffer an injury on duty (IOD), qualify, and are placed on Metro's In-Line-Of-Duty Injury Leave (Civil Service Rule 4.8), and the condition requiring use of IOD injury leave qualifies as a serious health condition under the FMLA:

1. You will receive the paid benefits of IOD leave which will be substituted for, and run concurrently with, your unpaid FMLA leave.
2. Other forms of available paid leave (sick, vacation, personal or administrative) will NOT be substituted or used concurrently with IOD leave, i.e. you will not be simultaneously paid for BOTH IOD leave benefits and other forms of available paid leave.
3. If you exhaust available IOD leave benefits during a portion of unpaid FMLA leave, then your other forms of accrued paid leave, with the exception of sick leave (CS Rule 4.8 §6) will be substituted for unpaid FMLA leave, and your paid leave and unpaid FMLA leave will run concurrently.
4. The counting of FMLA leave will start at the same time as the beginning of your approved IOD leave, which is the first date you are absent from work, and will be counted concurrently with FMLA leave from that date forward.

14. Can Metro count leave taken due to pregnancy complications against the 12 workweeks of FMLA leave for the birth and care of my child?

Yes. An eligible employee is entitled to a total of 12 workweeks of FMLA leave in a 12-month period. If an employee has to use some of that leave for another reason, including a difficult pregnancy, it may be counted as part of

the 12-workweek FMLA leave entitlement. The beginning of the 12-workweek period starts from the first day the employee is absent, not from date of delivery.

15. I understand Tennessee has its own Maternity Leave Law. How does FMLA leave and the Tennessee law work together?

Civil Service Policy 4.16.3 states that FMLA leave and maternity leave allowed by State law will run concurrently. State law allows employees who have been employed by Metro for at least twelve (12) consecutive months as full-time employees to be absent for a period not to exceed four (4) months for adoption, pregnancy, childbirth and nursing an infant. For adoptions, the four-month period begins at the time the employee receives custody of the child. A Metro employee who meets the State law requirements may therefore be absent for four (4) months as opposed to the 12-workweek period allowed by FMLA. However the FMLA 12-workweek period will be counted as part of the four months allowed by State law, i.e. they will run together, not one in addition to the other.

16. Can leave for childbirth or adoption be taken at any time?

No. That leave must be taken within 12 months after the birth or placement for adoption or foster care. In many circumstances, however, the leave may start before the birth or placement for adoption, such as leave needed for pre-natal care or for home studies in connection with an adoption.

17. My wife and I are employees of Metro and are expecting the birth of our child. Can both of us apply for leave under the Family and Medical Leave Act?

Civil Service Policy 4.16.4 states that leave for a husband and wife both employed by Metro, even in different departments, is aggregate (i.e. not 12 workweeks each) for the time taken for childbirth or adoption.

18. Can leave be taken to care for children of any age?

No. FMLA leave is only available to care for a child under the age of 18, or a child over the age of 18 with a disability where the child is unable to perform activities of daily living without assistance.

19. May I use FMLA to care for my parent- in- law?

No. Individuals cannot take FMLA leave to care for parents-in-law, grandparents, grandchildren, siblings, aunts, uncles, or other adults. Leave

cannot be taken to care for nieces or nephews, or any other children, unless the employee has legal responsibility for those children.

20. How much notice do I have to give my supervisor before I go out on FMLA leave?

Employees seeking FMLA leave are required to provide their supervisors and/or their HR Coordinator with at least 30 days WRITTEN notice of the proposed leave. The FMLA request form can be obtained from your department's HR Coordinator. Where advanced notice is not possible, such as in the event of a medical emergency, notice should be given as soon as possible. Failure to give advance notice, where foreseeable, may delay or postpone the commencement of the leave, or result in denial of FMLA leave.

21. May I take FMLA leave for visits to a therapist, if my doctor prescribes the therapy?

Yes. FMLA permits you to take leave to receive "continuing treatment by a health care provider," which can include recurring absences for therapy treatments such as those ordered by a doctor for physical therapy after a hospital stay, or for treatment of severe arthritis.

22. What proof must I submit to validate my request for FMLA leave?

Medical certification from a health care provider will be required if FMLA leave is based on a serious health condition of an employee or family member. Metro also requires medical certification if the FMLA leave is due to the birth of a child. The FMLA request form also provides an employee with the opportunity to advise Metro of an employee's intent to engage in the placement of a child for adoption. Failure to provide medical certification may result in a delay or denial of the employee's leave.

23. How long do I have to obtain the medical certification form from a health care provider?

The medical certification must be provided within fifteen (15) calendar days of Metro's request.

24. What happens if my "medical condition" is in question?

You may be asked questions to confirm whether the leave needed or being taken qualifies for FMLA purposes. You may be required to submit periodic reports on your status and intent to return to work after leave. Also, if Metro wishes to obtain another opinion, you may be required to obtain additional

medical certification(s) at Metro's expense, or a recertification from your provider, at your expense, during a period of FMLA leave. Metro may have its own health care provider contact your health care provider to clarify information in the medical certification or to confirm that the health care provider completed it.

25. What does an employee have to show to prove that he or she is "needed to care for" a family member?

The employee will be required to provide a medical certification that establishes that the employee is needed to care for the family member. The Certification of Health Care Provider form is sufficient.

26. What happens to my insurance coverage (health, dental, optical etc.) while I am on FMLA leave?

If your request for FMLA leave is approved, you will be retained on the health/dental/optical coverage that you selected and contributed to prior to leave, under the same conditions that applied prior to leave. Metro employees have three options for the payment of premiums while on FMLA leave:

1. You may pay all premiums in advance prior to taking FMLA leave.
2. You may pay all premiums as they come due on a monthly basis by making monthly payments direct to Metro. See your supervisor or HR Coordinator if you wish to use this option.
3. You may request Metro to pay your share of the premiums for medical, dental, and vision insurance while you are on FMLA leave and Metro will recover those payments from you after you return to work. When you do return to work, there will be double deductions from your paycheck until all premiums are repaid. Deductions from pay will be spread out over a longer period of time for you if your serious health condition causes you to apply for a disability pension.

If you fail to return to work after the expiration of FMLA leave, you will be required to reimburse Metro for payment of health insurance premiums during the leave, unless the reason you fail to return is the presence of a serious health condition which prevents you from performing your job or due to circumstances beyond your control.

27. How will going out on a FMLA leave affect my Metro pension?

If an employee takes FMLA leave, any period of FMLA leave shall be treated as continued service for purposes of eligibility to participate and vesting of service.

28. If I am on FMLA leave in a leave without pay status for longer than 20 days, how will my continuous service date be affected for purposes of accruing vacation time?

If an employee is in a LWOP status for longer than 20 days, their continuous service date will be adjusted based on any days over 20. The accrual rate is based on the continuous service date. The Civil Service Rules state in §§ 4.6 and 4.7, that an employee must be in a paid status the entire month in order to accrue for that month.

29. If I am on FMLA leave in a leave without pay status for longer than 20 days, how will my continuous service date be affected for purposes of calculating longevity?

If you are in a LWOP status for longer than 20 days, your continuous service date will be adjusted by the number of days over 20. Your longevity amount is based on your continuous service date pursuant to the longevity Resolution (RS2001-642).

30. Can Metro require me to return to work before I exhaust my leave?

Subject to certain limitations, Metro may deny the continuation of FMLA leave due to a serious health condition if you fail to fulfill any obligations to provide supporting medical certification. Metro may not, however, require you to return to work early by offering you a light duty assignment.

31. When will FMLA not apply?

The protections of FMLA will not cover situations where the reason for leave does not meet medical condition eligibility requirements, where the reason for leave no longer exists, where the employee has not provided required notices or certifications, or where the employee has misrepresented the reason for leave.

32. Can my department deny or terminate my Family Medical Leave?

Yes. The following reasons would apply:

- If you do not meet the eligibility requirements
- Employees who give unequivocal notice that they do not intend to return to work lose their entitlement to FMLA leave.
- Employees who are unable to return to work and have exhausted their 12 workweeks of FMLA leave in the designated "12 month period" no longer have FMLA protections of leave or job restoration.

33. Am I permitted to work at outside jobs while I am on approved FMLA leave?

Yes, with two conditions. An employee eligible for FMLA leave may engage in outside employment provided: A) the employee's health care provider approves the outside employment by certifying that the outside employment will not impede the employee's recovery from, or treatment for, a serious health condition; and B) the employee's Human Resources Coordinator approves the outside employment as being consistent with Civil Service Rules §3.8. An employee seeking permission to engage in outside employment while on FMLA leave is responsible for having their health care provider submit a separate letter to their HR Coordinator that satisfies these requirements.

34. Can Metro count my leave as FMLA leave even if I have not asked to use my FMLA leave?

Yes. Under the FMLA, an employer can count an absence for a serious health condition as an FMLA absence even if the employee does not request that the leave be counted as such.

35. What happens to my supplemental or dependent life insurance coverage?

If you miss thirty (30) days' work or three (3) or more paychecks from Metro, you must make full premium payments for supplemental and dependent life insurance directly to Metro within thirty (30) days of your last premium deduction if you want these benefits to continue. If payment is not made, a lapse in coverage will occur and you will be subject to the evidence of insurability requirements of the insurance company.

36. What happens to my Short-Term and/or Long-Term Disability insurance coverage?

If you have been approved for Short-Term Disability (STD) by the insurance company, you do not have to pay the STD insurance premium. However, you must pay the Long-Term Disability (LTD) premium for your LTD insurance to remain in effect while you are on STD.

